

ARKANSAS COURT OF APPEALS

DIVISION II
No. CR-14-499

LESTER PHILLIPS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered March 4, 2015

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT
[NO. CR-12-379]

HONORABLE BERLIN C. JONES,
JUDGE

REMANDED TO SETTLE AND
SUPPLEMENT THE RECORD;
SUPPLEMENTATION OF THE
ADDENDUM ORDERED

RAYMOND R. ABRAMSON, Judge

On October 30, 2013, Lester Phillips was convicted by a Jefferson County jury of murder in the second degree. He was sentenced as a habitual offender to forty years in the Arkansas Department of Correction. On appeal, Phillips asserts that the trial court abused its discretion when it denied his timely motion for a mistrial. We do not reach the merits of Phillips's argument because we must remand for the record to be settled and supplemented, and we order supplementation of the addendum.

Although Phillips was found guilty of murder in the second degree, the jury-verdict form reflecting his guilt is not included in the record. If anything material to either party is omitted from the record by error or accident, this court can sua sponte direct that the omission be corrected and that a supplemental record be certified and transmitted. Ark. R.

App. P.–Civ.(6)(e) (as made applicable to criminal cases by Ark. R. App. P.–Crim.4(a)); *see Whitson v. State*, 2013 Ark. App. 730. Accordingly, we remand this case to the circuit court to settle and supplement the record. Phillips has thirty days from the date of this opinion to file a supplemental record with this court.

Ark. Sup. Ct. R. 4-2(a)(8) requires the addendum to contain all documents in the record that “are essential for the appellate court to confirm its jurisdiction, to understand the case, and to decide the issues on appeal.” Specifically, the Rule states that, “in a case where there is a jury trial, the jury’s verdict forms” must be included in the addendum. Ark. Sup. Ct. R. 4-2(a)(8)(A)(i) (2014). Phillips has seven calendar days after the record is supplemented to file a supplemental addendum. Ark. Sup. Ct. R. 4-2(b)(4). We strongly encourage counsel to carefully review our rules, as well as the record and addendum, to ensure that no additional deficiencies are present.

Remanded to settle and supplement the record; supplementation of the addendum ordered.

HIXSON and HOOFFMAN, JJ., agree.

Potts Law Office, by: Gary W. Potts, for appellant.

Dustin McDaniel, Att’y Gen., by: Valerie Glover Fortner, Ass’t Att’y Gen., for appellee.